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Stephanie,

Bumping up this request for a time this week to confer on the Conforti privilege log matter. Recognizing there are a lot of meet and confer requests floating, but this one is outstanding for several days - can we set a time for this week? We are available Wednesday before 12:30 and anytime on Thursday or Friday.

Corey

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**From:** Stoughton, Corey <[CStoughton@legal-aid.org](mailto:CStoughton@legal-aid.org)>  
**Sent:** Wednesday, May 18, 2022 9:16 AM  
**To:** Breslow, Stephanie (Law) <[sbreslow@law.nyc.gov](mailto:sbreslow@law.nyc.gov)>; Weng, Jenny (Law) <[jweng@law.nyc.gov](mailto:jweng@law.nyc.gov)>; Hamill, Bridget (LAW) <[brhamill@law.nyc.gov](mailto:brhamill@law.nyc.gov)>; Nelson, Genevieve (Law) <[gnelson@law.nyc.gov](mailto:gnelson@law.nyc.gov)>; Braun, Daniel (Law) <[dbraun@law.nyc.gov](mailto:dbraun@law.nyc.gov)>; Riordan, Shannon (LAW) <[sriordan@law.nyc.gov](mailto:sriordan@law.nyc.gov)>; Robinson, Amy (LAW) <[arobinso@law.nyc.gov](mailto:arobinso@law.nyc.gov)>; Ibrahim, Nadine (LAW) <[nibrahim@law.nyc.gov](mailto:nibrahim@law.nyc.gov)>  
**Cc:** AG-NYPDLitigation <[ag.nypdlitigation@ag.ny.gov](mailto:ag.nypdlitigation@ag.ny.gov)>; Gray Legal Team-External <[GrayLegalTeam@dwt.com](mailto:GrayLegalTeam@dwt.com)>; Hernandez Team <[hernandez@femmelaw.com](mailto:hernandez@femmelaw.com)>; Molly Biklen <[PayneLitigationTeam@nyclu.org](mailto:PayneLitigationTeam@nyclu.org)>; Sierra Team <[SierraTeam@moskovitzlaw.com](mailto:SierraTeam@moskovitzlaw.com)>; Sow-Legal <[Sow-Legal@blhny.com](mailto:Sow-Legal@blhny.com)>; Wood <[wood@klflaw.com](mailto:wood@klflaw.com)>  
**Subject:** Re: In re: NYC Policing During Summer 2020 - Conforti Privilege Log

Stephanie,

Thank you for sending this. Can you please provide by the end of the day today dates for a meet and confer this week or early next on the issues and concerns about the Conforti privilege issues raised in my prior emails? I will follow up to add references to these new documents to my earlier email, for purposes of structuring and aiding the discussion, but the outline of the issues and the need to meet and confer on them is unchanged since we last corresponded on this.

Corey

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**From:** Breslow, Stephanie (Law) <[sbreslow@law.nyc.gov](mailto:sbreslow@law.nyc.gov)>  
**Sent:** Tuesday, May 17, 2022 12:10:05 AM  
**To:** Stoughton, Corey <[CStoughton@legal-aid.org](mailto:CStoughton@legal-aid.org)>; Weng, Jenny (Law) <[jweng@law.nyc.gov](mailto:jweng@law.nyc.gov)>; Hamill, Bridget (LAW) <[brhamill@law.nyc.gov](mailto:brhamill@law.nyc.gov)>; Nelson, Genevieve (Law) <[gnelson@law.nyc.gov](mailto:gnelson@law.nyc.gov)>; Braun, Daniel (Law) <[dbraun@law.nyc.gov](mailto:dbraun@law.nyc.gov)>; Riordan, Shannon (LAW) <[sriordan@law.nyc.gov](mailto:sriordan@law.nyc.gov)>; Robinson, Amy (LAW) <[arobinso@law.nyc.gov](mailto:arobinso@law.nyc.gov)>; Ibrahim, Nadine (LAW) <[nibrahim@law.nyc.gov](mailto:nibrahim@law.nyc.gov)>  
**Cc:** AG-NYPDLitigation <[ag.nypdlitigation@ag.ny.gov](mailto:ag.nypdlitigation@ag.ny.gov)>; Gray Legal Team-External <[GrayLegalTeam@dwt.com](mailto:GrayLegalTeam@dwt.com)>; Hernandez Team <[hernandez@femmelaw.com](mailto:hernandez@femmelaw.com)>; Molly Biklen <[PayneLitigationTeam@nyclu.org](mailto:PayneLitigationTeam@nyclu.org)>; Sierra Team <[SierraTeam@moskovitzlaw.com](mailto:SierraTeam@moskovitzlaw.com)>; Sow-Legal <[Sow-Legal@blhny.com](mailto:Sow-Legal@blhny.com)>; Wood <[wood@klflaw.com](mailto:wood@klflaw.com)>  
**Subject:** RE: In re: NYC Policing During Summer 2020 - Conforti Privilege Log

Please find attached defendants' supplement to the privilege log produced to plaintiffs on April 19, 2022, based on our review of approximately 50 additional documents relating to the Conforti Report. The additional documents were among those Chief Conforti had provided to the NYPD Legal Bureau (not to the Law Department) prior to April 19, 2022. On May 5, 2022, Legal Bureau staff forwarded them to counsel for the City.

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**From:** Stoughton, Corey <[CStoughton@legal-aid.org](mailto:CStoughton@legal-aid.org)>  
**Sent:** Wednesday, May 11, 2022 9:07 AM  
**To:** Breslow, Stephanie (Law) <[sbreslow@law.nyc.gov](mailto:sbreslow@law.nyc.gov)>; Weng, Jenny (Law) <[jweng@law.nyc.gov](mailto:jweng@law.nyc.gov)>; Hamill, Bridget

(LAW) <[brhamill@law.nyc.gov](mailto:brhamill@law.nyc.gov)>; Nelson, Genevieve (Law) <[gnelson@law.nyc.gov](mailto:gnelson@law.nyc.gov)>; Braun, Daniel (Law) <[dbraun@law.nyc.gov](mailto:dbraun@law.nyc.gov)>; Riordan, Shannon (LAW) <[sriordan@law.nyc.gov](mailto:sriordan@law.nyc.gov)>; Robinson, Amy (LAW) <[arobinso@law.nyc.gov](mailto:arobinso@law.nyc.gov)>; Ibrahim, Nadine (LAW) <[nibrahim@law.nyc.gov](mailto:nibrahim@law.nyc.gov)>

**Cc:** AG-NYPDLitigation <[ag.nypdlitigation@ag.ny.gov](mailto:ag.nypdlitigation@ag.ny.gov)>; Gray Legal Team-External <[GrayLegalTeam@dwt.com](mailto:GrayLegalTeam@dwt.com)>; Hernandez Team <[hernandez@femmelaw.com](mailto:hernandez@femmelaw.com)>; Molly Biklen <[PayneLitigationTeam@nyclu.org](mailto:PayneLitigationTeam@nyclu.org)>; Sierra Team <[SierraTeam@moskovitzlaw.com](mailto:SierraTeam@moskovitzlaw.com)>; Sow-Legal <[Sow-Legal@blhny.com](mailto:Sow-Legal@blhny.com)>; Wood <[wood@klflaw.com](mailto:wood@klflaw.com)>

**Subject:** [EXTERNAL] Re: In re: NYC Policing During Summer 2020 - Conforti Privilege Log

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Stephanie,

Thank you for the update. We agree it makes more sense to meet and confer after the production of all responsive documents so that we are conferring about the complete universe of what the City claims is privileged. Assuming the privilege log is produced on the 16th, we could meet between 9-12 am or at 3pm on Thursday the 19th, or anytime before 4pm on Friday the 20th.

However, the fact of newly discovered documents is troubling given that the City was under a court order to produce all responsive documents last month, produced a sworn statement from Chief Conforti at that time indicating that he produced to the Law Department all records that were part of his process, and premised its opposition to Plaintiffs' waiver motion on a promise to the Court that all documents would be identified by April 15. Particularly in light of recent misrepresentations and the Court's instruction to the Law Department to investigate them, we think an explanation of these events is required in the form of a second affirmation from Chief Conforti addressing how these documents were overlooked, as well as, as previously requested, confirming that all of the documents referenced in paragraph 17 of the Conforti Affirmation have been either produced or listed in the Second Amended Privilege log.

Sincerely,

Corey

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**From:** Breslow, Stephanie (Law) <[sbreslow@law.nyc.gov](mailto:sbreslow@law.nyc.gov)>

**Sent:** Tuesday, May 10, 2022 6:51 PM

**To:** Stoughton, Corey <[CStoughton@legal-aid.org](mailto:CStoughton@legal-aid.org)>; Weng, Jenny (Law) <[jweng@law.nyc.gov](mailto:jweng@law.nyc.gov)>; Hamill, Bridget (LAW) <[brhamill@law.nyc.gov](mailto:brhamill@law.nyc.gov)>; Nelson, Genevieve (Law) <[gnelson@law.nyc.gov](mailto:gnelson@law.nyc.gov)>; Braun, Daniel (Law) <[dbraun@law.nyc.gov](mailto:dbraun@law.nyc.gov)>; Riordan, Shannon (LAW) <[sriordan@law.nyc.gov](mailto:sriordan@law.nyc.gov)>; Robinson, Amy (LAW) <[arobinso@law.nyc.gov](mailto:arobinso@law.nyc.gov)>; Ibrahim, Nadine (LAW) <[nibrahim@law.nyc.gov](mailto:nibrahim@law.nyc.gov)>

**Cc:** AG-NYPDLitigation <[ag.nypdlitigation@ag.ny.gov](mailto:ag.nypdlitigation@ag.ny.gov)>; Gray Legal Team-External <[GrayLegalTeam@dwt.com](mailto:GrayLegalTeam@dwt.com)>; Hernandez Team <[hernandez@femmelaw.com](mailto:hernandez@femmelaw.com)>; Molly Biklen <[PayneLitigationTeam@nyclu.org](mailto:PayneLitigationTeam@nyclu.org)>; Sierra Team <[SierraTeam@moskovitzlaw.com](mailto:SierraTeam@moskovitzlaw.com)>; Sow-Legal <[Sow-Legal@blhny.com](mailto:Sow-Legal@blhny.com)>; Wood <[wood@klflaw.com](mailto:wood@klflaw.com)>

**Subject:** RE: In re: NYC Policing During Summer 2020 - Conforti Privilege Log

Corey,

Upon further conferring with our client in preparation for the meet and confer tentatively scheduled for this Thursday at 11 am, counsel for the City are in receipt of approximately 50 additional documents provided by Chief Conforti that he may have created or relied upon while preparing his draft report in 2020. In accordance with defendants' ongoing obligation to supplement discovery, we will contact Chief Conforti as soon as possible so he can confirm whether and/or which of these documents he relied on, and we'll review all such documents for potential privilege. No later than **next Monday, May 16th**, we will provide plaintiffs with a supplement to the

privilege log provided on April 19 th. We will also produce to plaintiffs, on that same date or within a reasonable time period thereafter, materials of a purely factual nature on which Conforti relied. (While it is likely that most, if not all, such factual material has been previously produced, we will produce these materials out of an abundance of caution.)

In light of this development, and in the interests of efficiency and streamlining the meet and confer process, defendants propose that the parties reschedule the meet and confer tentatively scheduled for Thursday at 11 am until next week. This would give defendants the time needed to complete the process described above, and to provide plaintiffs with the supplement to the April 19th privilege log no later than Monday, May 16th. This way, the parties can address plaintiffs' concerns with defendants' April 19th privilege log, as well as any concerns regarding the supplement to that log, all together in a single meet and confer. This is preferable to the likely alternative scenario of meeting now to discuss the April 19th privilege log and then having to meet again once defendants produce the supplement. Meeting next week will also permit defendants further time to examine the issues set forth in your May 3 email, in order to be fully prepared to discuss these at the meet and confer.

Please advise when you anticipate being ready to meet and confer after receiving the supplemental log.

Best,

Stephanie M. Breslow  
*Senior Counsel*  
Special Federal Litigation Division  
New York City Law Department  
100 Church St., Room 3-139  
New York, NY 10007  
[sbreslow@law.nyc.gov](mailto:sbreslow@law.nyc.gov)  
(212) 356-2660

---

**From:** Stoughton, Corey <[CStoughton@legal-aid.org](mailto:CStoughton@legal-aid.org)>

**Sent:** Tuesday, May 10, 2022 9:57 AM

**To:** Breslow, Stephanie (Law) <[sbreslow@law.nyc.gov](mailto:sbreslow@law.nyc.gov)>; Weng, Jenny (Law) <[jweng@law.nyc.gov](mailto:jweng@law.nyc.gov)>; Hamill, Bridget (LAW) <[brhamill@law.nyc.gov](mailto:brhamill@law.nyc.gov)>; Nelson, Genevieve (Law) <[gnelson@law.nyc.gov](mailto:gnelson@law.nyc.gov)>; Braun, Daniel (Law) <[dbraun@law.nyc.gov](mailto:dbraun@law.nyc.gov)>; Riordan, Shannon (LAW) <[sriordan@law.nyc.gov](mailto:sriordan@law.nyc.gov)>; Robinson, Amy (LAW) <[arobinso@law.nyc.gov](mailto:arobinso@law.nyc.gov)>; Ibrahim, Nadine (LAW) <[nibrahim@law.nyc.gov](mailto:nibrahim@law.nyc.gov)>

**Cc:** AG-NYPDLitigation <[ag.nypdlitigation@ag.ny.gov](mailto:ag.nypdlitigation@ag.ny.gov)>; Gray Legal Team-External <[GrayLegalTeam@dwt.com](mailto:GrayLegalTeam@dwt.com)>; Hernandez Team <[hernandez@femmelaw.com](mailto:hernandez@femmelaw.com)>; Molly Biklen <[PayneLitigationTeam@nyclu.org](mailto:PayneLitigationTeam@nyclu.org)>; Sierra Team <[SierraTeam@moskovitzlaw.com](mailto:SierraTeam@moskovitzlaw.com)>; Sow-Legal <[Sow-Legal@blhny.com](mailto:Sow-Legal@blhny.com)>; Wood <[wood@klflaw.com](mailto:wood@klflaw.com)>

**Subject:** [EXTERNAL] Re: In re: NYC Policing During Summer 2020 - Conforti Privilege Log

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Thanks, Stephanie. Let's book Thursday morning 11-12 to discuss. And I just want to elevate again our request to bring the documents from the privilege log to the meet and confer. Zoom link for the meeting is below.

Speak to you then,

Corey

Corey Stoughton (she/her) is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting

<https://legalaid.zoom.us/j/98224230657?pwd=eTI5cVQwL1N0K2VpZXQyVlNkV1ViUT09&from=addon>

Meeting ID: 982 2423 0657

Passcode: 544674

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+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 9128 US (San Jose)

888 475 4499 US Toll-free

833 548 0276 US Toll-free

833 548 0282 US Toll-free

877 853 5257 US Toll-free

Meeting ID: 982 2423 0657

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**From:** Breslow, Stephanie (Law) <[sbreslow@law.nyc.gov](mailto:sbreslow@law.nyc.gov)>

**Sent:** Monday, May 9, 2022 5:59 PM

**To:** Stoughton, Corey <[CStoughton@legal-aid.org](mailto:CStoughton@legal-aid.org)>; Weng, Jenny (Law) <[jweng@law.nyc.gov](mailto:jweng@law.nyc.gov)>; Hamill, Bridget (LAW) <[brhamill@law.nyc.gov](mailto:brhamill@law.nyc.gov)>; Nelson, Genevieve (Law) <[gnelson@law.nyc.gov](mailto:gnelson@law.nyc.gov)>; Braun, Daniel (Law) <[dbraun@law.nyc.gov](mailto:dbraun@law.nyc.gov)>; Riordan, Shannon (LAW) <[sriordan@law.nyc.gov](mailto:sriordan@law.nyc.gov)>; Robinson, Amy (LAW) <[arobinso@law.nyc.gov](mailto:arobinso@law.nyc.gov)>; Ibrahim, Nadine (LAW) <[nibrahim@law.nyc.gov](mailto:nibrahim@law.nyc.gov)>

**Cc:** AG-NYPDLitigation <[AG.NYPDLitigation@ag.ny.gov](mailto:AG.NYPDLitigation@ag.ny.gov)>; Gray Legal Team-External <[GrayLegalTeam@dwt.com](mailto:GrayLegalTeam@dwt.com)>; Hernandez Team <[hernandez@femmelaw.com](mailto:hernandez@femmelaw.com)>; Molly Biklen <[PayneLitigationTeam@nyclu.org](mailto:PayneLitigationTeam@nyclu.org)>; Sierra Team <[SierraTeam@moskovitzlaw.com](mailto:SierraTeam@moskovitzlaw.com)>; Sow-Legal <[Sow-Legal@blhny.com](mailto:Sow-Legal@blhny.com)>; Wood <[wood@klflaw.com](mailto:wood@klflaw.com)>

**Subject:** RE: In re: NYC Policing During Summer 2020 - Conforti Privilege Log

Corey,

Defense counsel is available to meet and confer on this issue at the following dates and times:

1. This Thursday, May 12, any time between 10 am and 12 pm.

2. This Friday, May 13:

- 10 am – 11 am
- 1:30 pm – 2:30 pm
- 3:15 pm – 4:15 pm

Let us know which works best for plaintiffs.

Best,

Stephanie M. Breslow  
*Senior Counsel*

Special Federal Litigation Division  
New York City Law Department  
100 Church St., Room 3-139  
New York, NY 10007  
[sbreslow@law.nyc.gov](mailto:sbreslow@law.nyc.gov)  
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---

**From:** Stoughton, Corey <[CStoughton@legal-aid.org](mailto:CStoughton@legal-aid.org)>

**Sent:** Monday, May 9, 2022 9:50 AM

**To:** Breslow, Stephanie (Law) <[sbreslow@law.nyc.gov](mailto:sbreslow@law.nyc.gov)>; Weng, Jenny (Law) <[jweng@law.nyc.gov](mailto:jweng@law.nyc.gov)>; Hamill, Bridget (LAW) <[brhamill@law.nyc.gov](mailto:brhamill@law.nyc.gov)>; Nelson, Genevieve (Law) <[gnelson@law.nyc.gov](mailto:gnelson@law.nyc.gov)>; Braun, Daniel (Law) <[dbraun@law.nyc.gov](mailto:dbraun@law.nyc.gov)>; Riordan, Shannon (LAW) <[sriordan@law.nyc.gov](mailto:sriordan@law.nyc.gov)>; Robinson, Amy (LAW) <[arobinso@law.nyc.gov](mailto:arobinso@law.nyc.gov)>; Vecchiarelli, Giancarlo (LAW) <[GVecchi@law.nyc.gov](mailto:GVecchi@law.nyc.gov)>; Ibrahim, Nadine (LAW) <[nibrahim@law.nyc.gov](mailto:nibrahim@law.nyc.gov)>

**Cc:** AG-NYPDLitigation <[AG.NYPDLitigation@ag.ny.gov](mailto:AG.NYPDLitigation@ag.ny.gov)>; Gray Legal Team-External <[GrayLegalTeam@dwt.com](mailto:GrayLegalTeam@dwt.com)>; Hernandez Team <[hernandez@femmelaw.com](mailto:hernandez@femmelaw.com)>; Molly Biklen <[PayneLitigationTeam@nyclu.org](mailto:PayneLitigationTeam@nyclu.org)>; Sierra Team <[SierraTeam@moskovitzlaw.com](mailto:SierraTeam@moskovitzlaw.com)>; Sow-Legal <[Sow-Legal@blhny.com](mailto:Sow-Legal@blhny.com)>; Wood <[wood@klflaw.com](mailto:wood@klflaw.com)>

**Subject:** [EXTERNAL] Re: In re: NYC Policing During Summer 2020 - Conforti Privilege Log

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Stephanie,

Can you please provide some proposed times for this meet and confer on the Conforti privilege log this week by the end of the day today? It has been nearly a week since we since the below email and we are merely looking for a date and time to discuss. I recognize there are other meet and confer sessions on deck and so we would be happy to add this to a longer agenda if you or your team can make sufficient time to address all the issues.

Corey

---

**From:** Breslow, Stephanie (Law) <[sbreslow@law.nyc.gov](mailto:sbreslow@law.nyc.gov)>

**Sent:** Wednesday, May 4, 2022 6:06 PM

**To:** Stoughton, Corey <[CStoughton@legal-aid.org](mailto:CStoughton@legal-aid.org)>; Weng, Jenny (Law) <[jweng@law.nyc.gov](mailto:jweng@law.nyc.gov)>; Hamill, Bridget (LAW) <[brhamill@law.nyc.gov](mailto:brhamill@law.nyc.gov)>; Nelson, Genevieve (Law) <[gnelson@law.nyc.gov](mailto:gnelson@law.nyc.gov)>; Braun, Daniel (Law) <[dbraun@law.nyc.gov](mailto:dbraun@law.nyc.gov)>; Riordan, Shannon (LAW) <[sriordan@law.nyc.gov](mailto:sriordan@law.nyc.gov)>; Robinson, Amy (LAW) <[arobinso@law.nyc.gov](mailto:arobinso@law.nyc.gov)>; Vecchiarelli, Giancarlo (LAW) <[GVecchi@law.nyc.gov](mailto:GVecchi@law.nyc.gov)>; Ibrahim, Nadine (LAW) <[nibrahim@law.nyc.gov](mailto:nibrahim@law.nyc.gov)>

**Cc:** AG-NYPDLitigation <[AG.NYPDLitigation@ag.ny.gov](mailto:AG.NYPDLitigation@ag.ny.gov)>; Gray Legal Team-External <[GrayLegalTeam@dwt.com](mailto:GrayLegalTeam@dwt.com)>; Hernandez Team <[hernandez@femmelaw.com](mailto:hernandez@femmelaw.com)>; Molly Biklen <[PayneLitigationTeam@nyclu.org](mailto:PayneLitigationTeam@nyclu.org)>; Sierra Team <[SierraTeam@moskovitzlaw.com](mailto:SierraTeam@moskovitzlaw.com)>; Sow-Legal <[Sow-Legal@blhny.com](mailto:Sow-Legal@blhny.com)>; Wood <[wood@klflaw.com](mailto:wood@klflaw.com)>

**Subject:** RE: In re: NYC Policing During Summer 2020 - Conforti Privilege Log

Corey and Counsel,

We are looking into this matter and will let you know when we're prepared to meet and confer next week.

Best,



Stephanie M. Breslow  
*Senior Counsel*  
Special Federal Litigation Division  
New York City Law Department  
100 Church St., Room 3-139  
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**From:** Stoughton, Corey <[CStoughton@legal-aid.org](mailto:CStoughton@legal-aid.org)>

**Sent:** Tuesday, May 3, 2022 4:53 PM

**To:** Breslow, Stephanie (Law) <[sbreslow@law.nyc.gov](mailto:sbreslow@law.nyc.gov)>; Weng, Jenny (Law) <[jweng@law.nyc.gov](mailto:jweng@law.nyc.gov)>; Hamill, Bridget (LAW) <[brhamill@law.nyc.gov](mailto:brhamill@law.nyc.gov)>; Nelson, Genevieve (Law) <[gnelson@law.nyc.gov](mailto:gnelson@law.nyc.gov)>; Braun, Daniel (Law) <[dbraun@law.nyc.gov](mailto:dbraun@law.nyc.gov)>; Riordan, Shannon (LAW) <[sriordan@law.nyc.gov](mailto:sriordan@law.nyc.gov)>; Robinson, Amy (LAW) <[arobinso@law.nyc.gov](mailto:arobinso@law.nyc.gov)>; Vecchiarelli, Giancarlo (LAW) <[GVecchi@law.nyc.gov](mailto:GVecchi@law.nyc.gov)>; Ibrahim, Nadine (LAW) <[nibrahim@law.nyc.gov](mailto:nibrahim@law.nyc.gov)>

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**Subject:** Re: [EXTERNAL] In re: NYC Policing During Summer 2020 - Conforti Privilege Log

Counsel,

We write to request a meet and confer on the applicability of the deliberative process privilege to the documents listed in the Second Amended Conforti Privilege Log and to serve the attached interrogatory and deposition notice relating to this subject matter. We do not agree that the new log adequately invokes the privilege as to all the listed documents. Please let us know when someone from the Law Department is available to discuss this matter later this week or next week. During our meet and confer, we ask that you bring these documents with you so that you can answer questions designed to help us better understand the validity of the application of the privilege.

To aid the discussion, we summarize below the primary questions and concerns we have about the applicability of the privilege by grouping overall categories of documents together, by reference to the number assigned to them in the privilege log. Plaintiffs' main concern is the blanket withholding of documents that appear to contain non-privileged, factual material, when redactions to remove genuinely deliberative material would have sufficed - although we also raise a few other, more discrete issues below as well. During our meet and confer, we would like to discuss whether Defendants are willing to produce the documents discussed below in full or with redactions for any genuinely deliberative material.

### **Draft (or portions of drafts) of the Conforti report**

Several of the documents are full or partial drafts of the Conforti report. The descriptions of these records strongly suggest that the draft report (and many of its separately listed portions) contain relevant – and potentially unique – non-privileged factual material. For example, Document 15, entitled “Charts for after action,” is described as “charts, tables, and graphics” for the draft report, which are self-evidently factual and not deliberative material. Other documents (including Documents 12-16, 30 and 33) are described with reference to facts such as the use of particular technologies during the protests or other matters. As these documents appear to represent portions of the full report, this concern that segregable, relevant factual material is contained in these documents therefore applies also to Documents 1 and 9, which we understand to be the final and near-final drafts of the complete Conforti Report.

Relatedly, Document 35 is described as a Power Point presentation prepared by Chief Conforti about his review. The privilege log does not list how many pages this presentation is or give any reason to believe that the entirety of its content is deliberative. (For example, does the presentation contain final versions of the tables and charts described in Document 15, to provide one example of potentially relevant non-privileged material?)

### **Conforti's notes**

Similarly, almost all the documents described as notes taken by Chief Conforti appear on their face to contain relevant factual or otherwise non-privileged information. For example, Document 2 is described as setting out Conforti's methodology for conducting his review. This information is not pre-decisional and, therefore, is not privileged. Moreover, it speaks to the material factual question of how the NYPD reviews and assesses its policing of protests. Documents 3, 4, 7 and 10 are notes about factual things – such as specific audio recordings and training material – and while the log states that some portions of the notes contain personal reflections and opinions, that suggests that other portions do not. Finally, Documents 31 and 32 are described as timelines of the protests, which are on their face factual and non-deliberative information.

### **Email chains**

Several of the documents in the privilege log are email chains about relevant subject matters that either show no indications of containing deliberative material or are, at best, only partially privileged. Document 4 is an email chain pertaining to media inquiries about the protests, which is on its face not deliberative, not least to the extent it appears to contain emails from outside the NYPD or other City agencies. Document 6 is entitled “Email thread – Protest deployment” – and is described as “Discussion of officer deployment” – a central factual matter in this litigation. Document 8 is an email thread containing what appears to be the Criminal Justice Bureau's “analysis of protest enforcement” – a plainly factual and material subject and not an analysis we are aware of having been produced in any other format.

### **Clarification as to Other Documents**

We would like to ask for clarification as to several of the remaining documents in the privilege log in order to assess your claim of privilege. The questions we have as to those documents are as follows:

- Can Defendants confirm that Document 11's summary of the “main takeaways” of the Conforti report discuss only proposed policy or practice recommendations and are not factual “takeaways” about events that occurred during the protests? Likewise, can Defendants confirm that Document 27 is solely limited to draft recommendations?
- Can Defendants confirm that Documents 17, 20-26, and 37-39 are marked-up versions of either Document 1 or Document 9, and that the mark-ups from Andrews, Miller and/or Mauro do not contain any distinct factual information? Similarly, can Defendants confirm that Document 36 – the email chain with DC Miller – contains solely DC Miller's proposed edits to Document 1 or 9 and/or expressions of his personal opinions of the review process and does not contain any distinct factual information?
- Can Defendants confirm that Document 18, 19, 28, 29 and 34 are, in essence, rough sketches of material that appears in Documents 1 or 9 and do not contain any distinct factual information?

To the extent that Defendants can answer these questions, we ask that they be answered under oath in a revised affirmation to support the invocation of the privilege.

### **Index of Documents Referenced in Conforti Affirmation Paragraph 17**

We request that you confirm that all of the documents referenced in paragraph 17 of the Conforti Affirmation have been either produced or listed in the Second Amended Privilege log, and that you

produce an index of the documents contained in the referenced box and hard drive produced to the Law Department.

Finally, given the information newly provided in the Conforti affirmation and the degree to which Defendants' invocation of the privilege has obstructed Plaintiffs' ability to gain information about the after-action review process, we attach separately to this correspondence a notice of deposition for Chief Conforti and Plaintiffs' Second Consolidated Interrogatories.

Sincerely,

Corey Stoughton, on behalf of plaintiffs



**Corey Stoughton**

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Pronouns: she, her

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**From:** Breslow, Stephanie (Law) <[sbreslow@law.nyc.gov](mailto:sbreslow@law.nyc.gov)>

**Sent:** Tuesday, April 19, 2022 11:04 PM

**To:** 'remy green' <[remy@femmelaw.com](mailto:remy@femmelaw.com)>; Weng, Jenny (Law) <[jweng@law.nyc.gov](mailto:jweng@law.nyc.gov)>

**Cc:** Weiss, Dara (Law) <[daweiss@law.nyc.gov](mailto:daweiss@law.nyc.gov)>; Nelson, Genevieve (Law) <[gnelson@law.nyc.gov](mailto:gnelson@law.nyc.gov)>; Hamill, Bridget (LAW) <[brhamill@law.nyc.gov](mailto:brhamill@law.nyc.gov)>; Braun, Daniel (Law) <[dbraun@law.nyc.gov](mailto:dbraun@law.nyc.gov)>; Riordan, Shannon (LAW) <[sriordan@law.nyc.gov](mailto:sriordan@law.nyc.gov)>; Robinson, Amy (LAW) <[arobinso@law.nyc.gov](mailto:arobinso@law.nyc.gov)>; Ibrahim, Nadine (LAW) <[nibrahim@law.nyc.gov](mailto:nibrahim@law.nyc.gov)>; Vecchiarelli, Giancarlo (LAW) <[GVecchi@law.nyc.gov](mailto:GVecchi@law.nyc.gov)>; AG-NYPDLitigation <[AG.NYPDLitigation@ag.ny.gov](mailto:AG.NYPDLitigation@ag.ny.gov)>; Gray Legal Team-External <[GrayLegalTeam@dwt.com](mailto:GrayLegalTeam@dwt.com)>; Hernandez Team <[hernandez@femmelaw.com](mailto:hernandez@femmelaw.com)>; Molly Biklen <[PayneLitigationTeam@nyclu.org](mailto:PayneLitigationTeam@nyclu.org)>; Sierra Team <[SierraTeam@moskovitzlaw.com](mailto:SierraTeam@moskovitzlaw.com)>; Sow-Legal <[Sow-Legal@blhny.com](mailto:Sow-Legal@blhny.com)>; Wood <[wood@klflaw.com](mailto:wood@klflaw.com)>

**Subject:** RE: [EXTERNAL] In re: NYC Policing During Summer 2020 - Sanction Proposal as Directed (deadline for final compliance next Tuesday)

Counsel,

Per Magistrate Judge Gorenstein's orders during last week's court conference, please find attached:

1. An affidavit by Assistant Chief Conforti describing the creation of his draft after-action report regarding police response to the George Floyd related protests from May 25-June 30, 2020; and
2. Version Two of Defendants' Second Amended Privilege Log for the "Conforti Report," which contains an identical entry for the draft report itself as was previously provided in defendants' 4/6/22 letter, but which now includes additional materials relating to Conforti's creation of the draft report (received from



Conforti, as described in his attached affidavit), which defendants assert are also protected from disclosure by the deliberative process privilege.

Best,

Stephanie M. Breslow  
*Senior Counsel*  
Special Federal Litigation Division  
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**From:** remy green <[remy@femmelaw.com](mailto:remy@femmelaw.com)>

**Sent:** Tuesday, April 19, 2022 8:19 PM

**To:** Weng, Jenny (Law) <[jweng@law.nyc.gov](mailto:jweng@law.nyc.gov)>

**Cc:** Weiss, Dara (Law) <[daweiss@law.nyc.gov](mailto:daweiss@law.nyc.gov)>; Nelson, Genevieve (Law) <[gnelson@law.nyc.gov](mailto:gnelson@law.nyc.gov)>; Hamill, Bridget (LAW) <[brhamill@law.nyc.gov](mailto:brhamill@law.nyc.gov)>; Breslow, Stephanie (Law) <[sbreslow@law.nyc.gov](mailto:sbreslow@law.nyc.gov)>; Braun, Daniel (Law) <[dbraun@law.nyc.gov](mailto:dbraun@law.nyc.gov)>; Riordan, Shannon (LAW) <[sriordan@law.nyc.gov](mailto:sriordan@law.nyc.gov)>; Robinson, Amy (LAW) <[arobinso@law.nyc.gov](mailto:arobinso@law.nyc.gov)>; Ibrahim, Nadine (LAW) <[nibrahim@law.nyc.gov](mailto:nibrahim@law.nyc.gov)>; Vecchiarelli, Giancarlo (LAW) <[GVecchi@law.nyc.gov](mailto:GVecchi@law.nyc.gov)>; AG-NYPDLitigation <[AG.NYPDLitigation@ag.ny.gov](mailto:AG.NYPDLitigation@ag.ny.gov)>; Gray Legal Team-External <[GrayLegalTeam@dwt.com](mailto:GrayLegalTeam@dwt.com)>; Hernandez Team <[hernandez@femmelaw.com](mailto:hernandez@femmelaw.com)>; Payne Litigation Team <[PayneLitigationTeam@nyclu.org](mailto:PayneLitigationTeam@nyclu.org)>; Sierra Team <[SierraTeam@moskovitzlaw.com](mailto:SierraTeam@moskovitzlaw.com)>; Sow-Legal <[Sow-Legal@blhny.com](mailto:Sow-Legal@blhny.com)>; Wood <[wood@klflaw.com](mailto:wood@klflaw.com)>

**Subject:** Re: [EXTERNAL] In re: NYC Policing During Summer 2020 - Sanction Proposal as Directed (deadline for final compliance next Tuesday)

Hi Jenny,

Frankly, I am very puzzled by that assertion. In any event, I think the Court's intent was very clear:

So you should make a proposal to the defendants about what you think they should do. Any disagreement just present it to me in a letter, and I'll go through the chart and say what the defendants have to do. They definitely have to do number 1, they should start doing that now. They should give their response within two weeks from today, the 26th.

2022-04-12 Tr. at 75.

Yours,

Remy.

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**J. Remy Green**

*Partner*

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On Tue, Apr 19, 2022 at 8:04 PM Weng, Jenny (Law) <[jweng@law.nyc.gov](mailto:jweng@law.nyc.gov)> wrote:

Hi Remy,

Our understanding of the Court Order is that defendants only have to produce Bates Stamp Nos as to Document Request #1 by next Tuesday. If our understanding is incorrect, please send us the transcript and point us to the pages you cite. Since Dara is out and we believe it's only Document Request #1 that's due by Tuesday, we don't believe that we need to meet and confer before she gets back but we will take a look at what you proposed below and will let you know when later next week we can confer.

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**From:** remy green <[remy@femmellaw.com](mailto:remy@femmellaw.com)>

**Sent:** Tuesday, April 19, 2022 3:27 PM

**To:** Weiss, Dara (Law) <[daweiss@law.nyc.gov](mailto:daweiss@law.nyc.gov)>; Nelson, Genevieve (Law) <[gnelson@law.nyc.gov](mailto:gnelson@law.nyc.gov)>; Hamill, Bridget (LAW) <[brhamill@law.nyc.gov](mailto:brhamill@law.nyc.gov)>; Breslow, Stephanie (Law) <[sbreslow@law.nyc.gov](mailto:sbreslow@law.nyc.gov)>; Braun, Daniel (Law) <[dbraun@law.nyc.gov](mailto:dbraun@law.nyc.gov)>; Riordan, Shannon (LAW) <[sriordan@law.nyc.gov](mailto:sriordan@law.nyc.gov)>; Robinson, Amy (LAW) <[arobinso@law.nyc.gov](mailto:arobinso@law.nyc.gov)>; Ibrahim, Nadine (LAW) <[nibrahim@law.nyc.gov](mailto:nibrahim@law.nyc.gov)>; Vecchiarelli, Giancarlo (LAW) <[GVecchi@law.nyc.gov](mailto:GVecchi@law.nyc.gov)>; Weng, Jenny (Law) <[jweng@law.nyc.gov](mailto:jweng@law.nyc.gov)>

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**Subject:** [EXTERNAL] In re: NYC Policing During Summer 2020 - Sanction Proposal as Directed (deadline for final compliance next Tuesday)

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Hi all,

I am not sure who to send this to, given Dara being out of the office, but I assume we need to meet on this issue this week, given Defendants' deadline **next Tuesday** (additionally, if you could let us know who is running point in general with Dara out of office, we would appreciate it).

The Court directed that we propose a subset of document requests for which Defendants, as a sanction, have been, "as a sanction for everything that's happened so far" "put ... to the burden of answering essentially on a very quick basis what would amount to a contention interrogatory as to which documents you contend fall into the[] categories" of each document request. 2022-04-18 Tr. 38:20-40:9. The Court directed us to propose a subset of the document requests that are "within the purview of the defendants," explaining that (1) Defendants know what their policies are and (2) we should be thinking about "what would be reasonable to require the defendants to do as opposed to [plaintiffs] because of the defendants' knowledge and expertise and presumed knowledge of their own documents." *Id.* 74:23-75:12. And as an illustration, the Court said that meeting this test was "very obvious in request number 1." *Id.*

With that, we propose these requests (all from the consolidated requests): 1, 2, 3, 4, 7, 12, 17, 20, 31, 32, 33, 35, 39-41, 49, 52, 54, 56, 57, 70, 71, 72, 73, 75, 76, 78, 88-90.

Please give us your availability to meet and confer if you disagree -- and please come prepared to discuss why you believe Plaintiffs are better suited to figure out which documents are responsive to any request you believe should not be on the list.

Yours,

Remy.

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**J. Remy Green**

*Partner*

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C&G

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